

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1145

By: Bell of the House

and

Hicks of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to criminal procedure; amending 22
12 O.S. 2011, Section 18, as last amended by Section 1,
13 Chapter 127, O.S.L. 2018 (22 O.S. Supp. 2018, Section
14 18), which relates to criminal arrest record
15 expungements; modifying qualifications for certain
16 categories; updating internal citations; and
17 providing an effective date.

18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 1. AMENDATORY 22 O.S. 2011, Section 18, as last
20 amended by Section 1, Chapter 127, O.S.L. 2018 (22 O.S. Supp. 2018,
21 Section 18), is amended to read as follows:

22 Section 18. A. Persons authorized to file a motion for
23 expungement, as provided herein, must be within one of the following
24 categories:

1 1. The person has been acquitted;

2 2. The conviction was reversed with instructions to dismiss by
3 an appellate court of competent jurisdiction, or an appellate court
4 of competent jurisdiction reversed the conviction and the
5 prosecuting agency subsequently dismissed the charge;

6 3. The factual innocence of the person was established by the
7 use of deoxyribonucleic acid (DNA) evidence subsequent to
8 conviction, including a person who has been released from prison at
9 the time innocence was established;

10 4. The person has received a full pardon on the basis of a
11 written finding by the Governor of actual innocence for the crime
12 for which the claimant was sentenced;

13 5. The person was arrested and no charges of any type,
14 including charges for an offense different than that for which the
15 person was originally arrested, are filed and the statute of
16 limitations has expired or the prosecuting agency has declined to
17 file charges;

18 6. The person was under eighteen (18) years of age at the time
19 the offense was committed and the person ~~has received a full pardon~~
20 ~~for the offense~~ was convicted of a nonviolent felony offense not
21 listed in Section 571 of Title 57 of the Oklahoma Statutes;

22 7. The person was charged with one or more misdemeanor or
23 felony crimes, all charges have been dismissed, the person has never
24 been convicted of a felony, no misdemeanor or felony charges are

1 pending against the person and the statute of limitations for
2 refiling the charge or charges has expired or the prosecuting agency
3 confirms that the charge or charges will not be refiled; provided,
4 however, this category shall not apply to charges that have been
5 dismissed following the completion of a deferred judgment or delayed
6 sentence;

7 8. The person was charged with a misdemeanor, the charge was
8 dismissed following the successful completion of a deferred judgment
9 or delayed sentence, the person has never been convicted of a
10 felony, and no misdemeanor or felony charges are pending against the
11 person and ~~at least one (1) year has passed since the charge was~~
12 ~~dismissed;~~

13 9. The person was charged with a nonviolent felony offense not
14 listed in Section 571 of Title 57 of the Oklahoma Statutes, the
15 charge was dismissed following the successful completion of a
16 deferred judgment or delayed sentence, the person has never been
17 convicted of a felony, no misdemeanor or felony charges are pending
18 against the person and at least ~~five (5)~~ two (2) years have passed
19 since the charge was dismissed;

20 10. The person was convicted of a misdemeanor offense, the
21 person was sentenced to a fine of less than ~~Five Hundred One Dollars~~
22 ~~(\$501.00)~~ One Thousand One Dollars (\$1,001.00) without a term of
23 imprisonment or a suspended sentence, the fine has been paid or
24 satisfied by time served in lieu of the fine, the person has not

1 been convicted of a felony and no felony or misdemeanor charges are
2 pending against the person;

3 11. The person was convicted of a misdemeanor offense, the
4 person was sentenced to a term of imprisonment, a suspended sentence
5 or a fine in an amount greater than ~~Five Hundred Dollars (\$500.00)~~
6 One Thousand One Dollars (\$1,001.00), the person has not been
7 convicted of a felony, no felony or misdemeanor charges are pending
8 against the person and at least ~~five (5)~~ two (2) years have passed
9 since the end of the last misdemeanor sentence;

10 12. The person was convicted of a nonviolent felony offense not
11 listed in Section 571 of Title 57 of the Oklahoma Statutes, the
12 person has not been convicted of any other felony or separate
13 misdemeanor in the last ~~seven (7)~~ three (3) years, no felony or
14 misdemeanor charges are pending against the person and at least ~~five~~
15 ~~(5)~~ two (2) years have passed since the completion of the sentence
16 for the felony conviction;

17 13. The person was convicted of not more than two nonviolent
18 felony offenses, not listed in Section 571 of Title 57 of the
19 Oklahoma Statutes, the person has received a full pardon for both of
20 the nonviolent felony offenses, no felony or misdemeanor charges are
21 pending against the person, and at least ~~twenty (20)~~ seven (7) years
22 have passed since the last misdemeanor or felony conviction; or

23 14. The person has been charged or arrested or is the subject
24 of an arrest warrant for a crime that was committed by another

1 person who has appropriated or used the person's name or other
2 identification without the person's consent or authorization.

3 B. For purposes of Section 18 et seq. of this title,
4 "expungement" shall mean the sealing of criminal records, as well as
5 any public civil record, involving actions brought by and against
6 the State of Oklahoma arising from the same arrest, transaction or
7 occurrence.

8 C. For purposes of seeking an expungement under the provisions
9 of paragraph 10, 11, 12 or 13 of subsection A of this section,
10 offenses arising out of the same transaction or occurrence shall be
11 treated as one conviction and offense.

12 D. Records expunged pursuant to paragraphs 8, 9, 10, 11, 12, 13
13 and 14 of subsection A of this section shall be sealed to the public
14 but not to law enforcement agencies for law enforcement purposes.
15 Records expunged pursuant to paragraphs 8, 9, 10, 11, 12 and 13 of
16 subsection A of this section shall be admissible in any subsequent
17 criminal prosecution to prove the existence of a prior conviction or
18 prior deferred judgment without the necessity of a court order
19 requesting the unsealing of the records. Records expunged pursuant
20 to paragraph ~~4, 6, 12~~ or 13 of subsection A of this section may also
21 include the sealing of Pardon and Parole Board records related to an
22 application for a pardon. Such records shall be sealed to the
23 public but not to the Pardon and Parole Board.

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SECTION 2. This act shall become effective November 1, 2019.

COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/27/2019 - DO
PASS, As Amended and Coauthored.